

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESale PRICE
LITIGATION

THIS DOCUMENT RELATES TO ALL
CLASS ACTIONS

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**PLAINTIFFS' [CORRECTED] MOTION TO COMPEL COMPLIANCE WITH CMO
NO. 7 AGAINST DEFENDANTS ABBOTT, DEY, SCHERING-PLOUGH AND WARRICK**

Plaintiffs respectfully move this Court for an Order requiring Defendants Abbott, Dey, Schering-Plough and Warrick to comply with Case Management Order No. 7, Section II, paragraph 3, which requires “all non-dismissed defendants to supplement their document production” within 30 days by producing any documents produced by a “non-dismissed defendant in response to subpoenas issued by the House Energy and Commerce Committee”

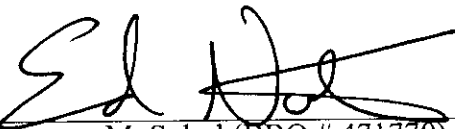
Each of the aforementioned Defendants have received a letter from the U.S. House Committee on Energy and Commerce on June 26, 2003 requesting the production of documents relating to AWP issues. Each of these Defendants has refused to supplement their document production to Plaintiffs in accordance with CMO No. 7 claiming that because they are manufacturers of multi-source drugs, Section II, paragraph 3 of CMO No. 7 does not apply to them. Plaintiffs disagree.

In support of Plaintiffs' position, Plaintiffs have submitted herewith Plaintiffs' Memorandum In Support of Motion to Compel Compliance with CMO No. 7.

CERTIFICATION OF COMPLIANCE WITH LOCAL RULES 7.1 and 37.1

Plaintiffs have conferred with counsel for each of Defendants Abbott, Dey, Schering-Plough and Warrick concerning supplementation of their production in accordance with CMO No. 7. As evidenced by the correspondence attached to Plaintiffs' Memorandum as Exhibit B, Defendants have refused to supplement their production and no further narrowing of the areas of disagreement with respect to this issue is possible.

DATED: September 17, 2003

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**ADDITIONAL ATTORNEYS FOR
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CERTIFICATE OF SERVICE

I hereby certify that I, Edward Notargiacomo, an attorney, caused true and correct copies of the foregoing Plaintiffs' Motion To Compel Compliance With CMO No. 7 Against Defendants Abbott, Dey, Shering-Plough And Warrick to be served on all counsel of record electronically, pursuant to Section D of Case Management Order No. 2., this 17th day of September, 2003.

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